IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Application No.1380 of 2006
In
Second Appeal Stamp No.20669 of 2006

Vishwajeet Annappa Naik (Mahar)
and ors. Applicants
Vs.
Shamrao Mahadeo Tambekar Respondent

Mr.S.V.Sadavarte for applicants.
Mr.S.S.Patwardhan for resp.

CORAM: B.H.MARLAPALLE, J.

June 6, 2007.

P.C.

. When this application was taken up for hearing on 17th April 2007 a statement was made by the learned counsel for the respondent that the decree under challenge was already executed. However, it is now stated that the said statement was factually incorrect.

. This application has been filed for condonation of delay caused in filing Second Appeal under Stamp No.20669 of 2006. As per the office note the delay caused is of three years and 163 days. Respondent has filed affidavit-in-reply and has opposed the prayer for delay condonation. In para 2

of this application, the grounds for condonation of delay are set out as under:

> "The applicants after receiving the certified copy approached the local advocate for advised to file appeal in the Hon'ble High Court. The applicants thereafter enquired about the expenses and fees to file the aforesaid appeal. The applicants hail from poor strata and, therefore, they took some time to arrange for expenses and fees."

. The above statement has been disputed by the respondent in the affidavit-in-reply. The respondent states that the applicant no.1 is an employee of the Maharashtra State Road Transport Corporation and is drawing a good salary whereas the applicant no.2 is having his own business and earning ample income. Applicant no.3 was employed as a peon in the National Cadet Corps (NCC) and he has retired from the service in the year 2003 with handsome retiral benefits. It is further pointed out that the applicants are in possession of 63 gunthas of land out of the total 83 gunthas and they have sold the remaining 20 gunthas of land to the respondent. They are cultivating

sugar-cane crop in the land in their possession.

. This application appears to have been presented for the first time sometimes in September 2006 and that too without verification by the applicants. Mr.Sadavarte states that verification of the application was done on 23/6/2003. However, that would not assist the applicants' case if the verified copy was kept somewhere else rather than presenting to the Registry of this Court.

. I am, therefore, satisfied that the applicants have failed to make out good and sufficient reasons to condone the long delay of more than three years and hence the application is rejected.

(B.H.MARL